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GAU 2859/1#
PATENT
Attorney Docket No.: 10517-37US
#25

Assistant Commissioner for Patents
Washington, D.C. 20231

On

6-21-99



TOWNSEND and TOWNSEND and CREW LLP

By

[Signature]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

SCHMIDT et al.

Application No.: 08/836,369

Filed: May 13, 1997

For:
TEMPERATURE-MEASUREMENT
INSTRUMENT WITH DIFFRACTIVE
OPTICS

Michael Carone, Supervisory Primary
Examiner, Special Laws and
Administration, Group 3640

Examiner: A. Hirshfield

Art Unit: 2859

COMMUNICATION

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

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The following is responsive to the DECISION ON REQUEST FOR
RETROACTIVE LICENSE UNDER 37 CFR 5.25 mailed on 3/9/99. A license was denied
for: 1) lacking statements from persons having first hand knowledge of the filings to support a
conclusion of error without deceptive intent; and 2) supporting documentation in support of
diligence.

In response to the petition, the following documents are appended to this
communication:

- 1) The declaration of Volker Schmidt, the inventor listed on the German document from
which the present application claims priority, who had first hand knowledge of the
German filing, setting forth facts supporting the conclusion of error without deceptive
intent.

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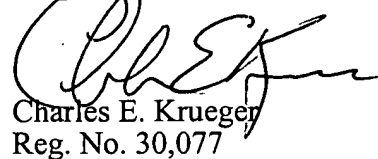
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- 2) The declaration of John McCulloch, the U.S. patent attorney who filed the present application, who had first hand knowledge of the U.S. filing, setting forth facts supporting the conclusion of error without deceptive intent.
- 3) The declaration of Charles E. Krueger, the U.S. patent attorney now in charge of the prosecution of the present application, who has personal knowledge of the date of discovery of the error and the events leading up to the filing of the present petition.

Accordingly, in view of facts set forth in the above-listed documents, it is believed that granting a retroactive foreign filing license is appropriate for the present application.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



Charles E. Krueger
Reg. No. 30,077

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